

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KENNETH RHODES,	§	
TDCJ No. 2105263,	§	
	§	
Petitioner,	§	
	§	
V.	§	No. 3:19-cv-1076-K
	§	
DIRECTOR, TDCJ-CID,	§	
	§	
Respondent.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The Court, adopting the findings, conclusions, and recommendation of the United States Magistrate Judge, issued judgment dismissing Petitioner's petition for a writ of habeas corpus with prejudice on June 30, 2021. Doc. 33. On August 4, 2021, Petitioner filed a Rule 60(d) motion for relief from judgment, as well as an accompanying document entitled "Plaintiff Rhodes [sic] Writ 60-D•3/60-D•1 Motion." Docs. 37, 38. The United States Magistrate Judge liberally construed these filings, collectively, as a motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(d)(1) and 60(d)(3) and issued findings, conclusions, and a recommendation concerning the motion. Doc. 39.

After reviewing all relevant matters of record in this case, including the findings, conclusions, and recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the

undersigned District Judge is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and they are accepted as the findings and conclusions of the Court. Thus, **IT IS ORDERED** that Petitioner's Rule 60(d) motion for relief from judgment (docs. 37 and 38) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction as a second or successive petition. The clerk of Court is hereby **DIRECTED** to open for statistical purposes a new Section 2254 case (nature of suit 530 directly assigned, per Special Order 3-251, to the undersigned and United States Magistrate Judge David L. Horan) and to close the same based upon the dismissal of the successive habeas petition.

SO ORDERED.

Signed September 21st, 2021.

A handwritten signature in black ink, reading "Ed Kinkeade", written over a horizontal line.

ED KINKEADE

UNITED STATES DISTRICT JUDGE